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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,206	06/01/1999	WILLIAM R. BANDY	1689.0010001	8893

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EXAMINER

MYHRE, JAMES W

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 12/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/323,206</b>	Applicant(s) <b>Bandy et al</b>
	Examiner <b>James W. Myhre</b>	Art Unit <b>3622</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on Nov 5, 2002
- 2a)  This action is **FINAL**.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 92-99, 101-104, and 106-117 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 92-99, 101-103, and 106-117 is/are allowed.
- 6)  Claim(s) 104 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The Information Disclosure Statement (paper number 14) filed on November 20, 2002 has been entered and considered.

### ***Election/Restriction***

2. Applicant's election without traverse of Group II (Claims 92-104 and 106-108) in Paper No. 10 is acknowledged

### ***Response to Amendment***

3. The amendment filed on November 5, 2002 has been considered but is ineffective to overcome the Reis et al (EP 0,467,036) reference. The amendment canceled Claims 76-91, 100, and 105 in response to the Restriction notice in the office action (paper number 10) of June 5, 2002, amended Claims 92, 94-99, 101, and 106-108, and added new Claims 109-117. Therefore, the currently pending claims are Claims 92-99, 101-104, and 106-117.

### ***Allowable Subject Matter***

4. Claims 92-99, 101-103, and 106-117 contain allowable subject matter.

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***Statement of the Reasons for the Indication of Allowable Subject Matter***

5. The following is a statement of reasons for the indication of allowable subject matter:

While prior art was found which disclosed systems and methods using electronic tags to track and locate items such as luggage (Kaplan et al, US 3, 689,885)(Wade, William, Electronic News) and prior art was also found which disclosed procedures for conflict resolution between multiple tags using random time differentiation to respond to a polling signal (Reis et al, EP 0,467,036)(Walter et al, 5,856,788), prior art was not located in which multiple tags were polled within a specified location to identify the items and which also handled contention between the identity signals from one or more tags within the location by using a secondary identification number stored in each tag. Therefore, the Examiner considers the combination of polling a plurality of electronic tags and resolving contention between the tags by the tags responding with a secondary identification code as the novelty of the invention.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 104 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reis et al (EP 0,467,036).

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Claim 104: Reis discloses an inventory system comprising a plurality of passive electronic tags and a tag reader (col 1, lines 23-32) which performs multiple reads of the tags to avoid time slot contention (col 7, lines 2-37).

***Response to Arguments***

8. Applicant's arguments filed November 5, 2002 have been fully considered but they are not persuasive.

The Applicant argues that Reis does not perform multiple reads of the RFID tags to avoid time slot contention. The Examiner notes that Reis explicitly claims using RFID tags, which receive power from a power strobe circuit (Claim 10) and are dormant until a wake-up signal from the interrogation transceiver is received (Claim 7). In order to resolve time slot contention (“simultaneous transmissions from two or more transceiver tags”)(Claim 11), the interrogation transceiver “acknowledges receipt of identification information from particular tags and requests remaining tags to resend identification transmissions until all responding tags have been identified” (Claim 12). Thus, the system of Reis performs multiple reads of RFID tags to avoid time slot contention. Additionally, the Examiner notes that Walter et al (5,856,788) a new reference submitted by the Applicant on the Information Disclosure Statement (Paper number 14) on November 20, 2002, also shows the reader sending a wake-up signal and a request for identification information to a plurality of tags, receiving a response from each tag, and sending one or more requests to each tag that was still in contention (see columns 5-7).

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The Applicant also argued against the narrow scope of the Reasons for Allowable Subject Matter cited by the Examiner in paragraph 10 of paper number 10. The Examiner notes that the paragraph points out references which disclose conducting inventories of a plurality of RFID tags and performing various methods of contention resolution, such as time differentiation (Reis) and requesting alternate bits from the identification number of each tag (Walter). Therefore, the Applicant's system, as a whole, is disclosed. The only feature that is not disclosed by the prior art is the specific feature of time slot contention resolution using two or more identification numbers on each tag. Therefore, that feature is the only novelty of the invention.

*Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. James W. Myhre whose telephone number is (703) 308-7843. The examiner can normally be reached on weekdays from 6:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, can be reached on (703) 305-8469. The fax phone number for Formal or Official faxes to Technology Center 3600 is (703) 872-9326. Draft or Informal faxes may be submitted to (703) 872-9327 or directly to the examiner at (703) 746-5544.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 308-1113.

  
JWM  
December 13, 2002

  
James W. Myhre  
Patent Examiner  
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